IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO.256 OF 2003

IN

SECOND APPEAL STAMP NO.47299 OF 2002

Vinayak Co-operative Housing
Society Ltd. : Appellants.

versus

Apung Maitri Society Ltd. : Respondents.

Ms.Subhangi Kadam i/by Mr.S.G.Deshmukh for the appellants.

CORAM : D.G.DESHPANDE,J.

DATED : 20th October 2005.

ORAL ORDER

1. This is an application for condonation of delay of 2 years and 154 days. Heard the advocate for the appellants. Respondents are served. The name of the advocate for the respondents is there on board. Nobody is present for the respondents. Application is supported by the affidavit. This application is filed by the

co-operative society. The reasons for delay have been given in para 8, 9 and 10 of the affidavit.

2. At this stage, Ms.P.P.Tendulkar i/by Mr.S.M.Oak for the respondents appears. She points out that she has filed reply to the application for condonation of delay and they are opposing the application.

3. However, looking to the facts that the dispute is in between two co-operative societies. The claim of the plaintiffs/appellants came to be dismissed by both the courts below. The suit of the plaintiffs/appellants was for removal of encroachment. Working of the society is very slow. Everything has been done in passing a resolution in the meeting. That is the difficulty mentioned in the affidavit. Therefore, in the circumstances, Application is allowed. Delay is condoned subject to payment of costs of Rs.2500/-. Payment of costs is a condition precedent. Costs to be paid on or before 1st December 2005 to the advocate for the respondents. Put up the appeal for admission on 1/12/2005. Civil Application is disposed of.

[D.G.DESHPANDE,J]